

# EXHIBIT 19

ORIGINAL

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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AMERICAN CIVIL LIBERTIES UNION, et al.,

Plaintiffs,

-against-

Case No.  
98-CV-5591

ALBERTO R. GONZALEZ, in his official  
capacity as Attorney General of the  
United States,

Defendant.

-----X

-- DAILY COPY --

February 17, 2006  
9:30 A.M.

885 Third Avenue  
New York, New York

DEPOSITION of SALON, one of the  
Plaintiffs herein, by JOAN WALSH, taken by the  
Defendants, pursuant to Notice.

ARISTA COURT REPORTING CO.  
192 Lexington Avenue  
Suite 802  
New York, New York 10016  
(212) 684-6100

1 JOAN WALSH

2 had an accuracy problem with a piece about four  
3 years ago to my knowledge, that's the only  
4 thing that we've ever taken down. It's all  
5 there, ten years worth.

6 Q. I think we've been over this, do  
7 you consider any portion of your web site to be  
8 pornographic?

9 A. No, I personally do not.

10 Q. Could you just review who  
11 determines what content is put on the web site?

12 A. Sure. We have a fairly  
13 decentralized decision-making structure in  
14 which senior editors have responsibility for  
15 section areas, whether it's life, news,  
16 technology, arts and entertainment, and those  
17 editors are the ones kind of at the first line  
18 deciding, you know, we're covering the Oscars,  
19 we're covering Abu Ghraib, whatever.

20 We have a daily meeting where we go  
21 over what editors think will be in their  
22 section, what they would like to be in their  
23 section, and it's at that point that I would  
24 exercise some discretion or judgment and say,  
25 "You know, I need to read that story. You

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2 know, this package sounds a little heavy on the  
3 entertainment without enough news." At some  
4 point in the process I read everything, but  
5 quite honestly that may be after it's gone up.

6 We have an executive editor, a  
7 managing editor who are really at the front  
8 line with those section editors reviewing the  
9 stories for quality, clarity, accuracy. Cover  
10 stories I tend to read, you know. I read every  
11 word and comma of our Abu Grave coverage, saw  
12 every image, saw all the images we didn't use.  
13 Issues like that I'm involved in every other  
14 random.

15 The columnists, the bloggers, the  
16 bloggers post and we read what they write  
17 later. They have complete autonomy to put  
18 their words on the site themselves. So, quite  
19 a lot of that I have very little to do that I  
20 read it and make sure quality's good and then,  
21 you know, we're doing right by our readers, but  
22 I'm not reading to filter or pull back or say  
23 this isn't going up today.

24 Q. How about with photos?

25 A. With photos it's the art department

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2 kind of thing that I don't want our bloggers  
3 doing. It was a combination of simply not  
4 wanting to be derivative and re-purposing other  
5 people's blog, and frankly finding the subject  
6 matter not, you know, not smart.

7 Q. Are there photos on the blogs?

8 A. Occasionally.

9 Q. Are there sexually explicit photos  
10 on the blogs?

11 A. Not so far.

12 Q. Just to make sure I understand, you  
13 say that you or somebody at Salon at some point  
14 reviews everything in the blogs after its  
15 posted at some point?

16 A. We have a copy editor whose job it  
17 is to mainly look for spelling errors and  
18 certain things. They're really high-level  
19 professionals so they don't make a lot of  
20 mistakes. That's mainly what she does. If she  
21 was to see something that she thought was poor  
22 reasoning, poor news judgment or offensive, she  
23 might flag it for the managing editor or for me  
24 and say hey, take a look at this, this point  
25 doesn't make sense to me or I have this or that

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2 issue with it.

3 Q. Do you have chat rooms?

4 A. We don't technically have chat  
5 rooms. We have something called Table Talk  
6 that was founded with Salon I'm pretty sure,  
7 you know, right when Salon went up maybe a week  
8 later, I wasn't there. Why it's not chat, the  
9 definitions are a little bit tough for me.  
10 Before I joined I would have called it chat,  
11 but it's definitely not chat.

12 Basically members can post in  
13 literally hundreds of conversation threads and  
14 talk to, you know, they're certainly talking to  
15 one another, often some of them aren't, some of  
16 them are declaiming and, you know.

17 We had a whole thread devoted to an  
18 amateur person who decided to take apart the  
19 inconsistencies in George Bush's National Guard  
20 service, and he got the documents and he did  
21 what major news organizations including Salon  
22 unfortunately really didn't do and, you know,  
23 that was a thread that people might chime in  
24 and say you go, good job, but wasn't terribly  
25 conversational as I recall it.

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2 Other threads are completely  
3 conversational. Other threads are being the  
4 parents of toddlers and what it's like, and  
5 then there are, you know, there's a real  
6 private life thread that discusses  
7 relationships a lot. There's a thread on what  
8 it's like to be a transgendered person. So, in  
9 those threads there can be very sexually,  
10 frank, and by some standards explicit  
11 conversations going on.

12 Q. Do you review or does anyone  
13 monitor the threads on Table Talk?

14 A. Not really. We have, basically  
15 we've created this infinite almost infinite  
16 garden in ten years. There are literally I  
17 would say more than hundreds, thousands of  
18 individual conversations going on with quite  
19 literally thousands, tens of thousands of  
20 people who've posted over the years.

21 We have a half time person  
22 moderating Table Talk, and her job mainly  
23 consists of, you know, visiting threads and  
24 occasionally starting new threads, seeing  
25 what's on people's minds, and then breaking up

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fights, and periodically, very rarely, but

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periodically removing posts either because

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they're abusive. By and large it's because

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they're really over the line, abusive to

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another Table Talk member. Never because

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they're abusive to me which really bothers me

8

because there's a whole thread devoted to my

9

failures, and I'm trying to think if ever in my

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experience a thread a post was pulled because

11

it was obscene or is sexually inappropriate,

12

and I just don't know that. I can't say

13

definitively either way.

14

Q. Do you have a complaint process?

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A. We do have a complaint process, and

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they, for Table Talk the first line of

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complaint would be Marybeth Williams, our

18

moderator, but they go around her, above her,

19

they find me, they find other management when

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they think something's going on that they don't

21

like, but for the most part really it's all

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about civility and how they're treating one

23

another. It's not, you know, somebody's being

24

very sexually inappropriate in the private

25

lives folder.



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2 went along with them. So, it wasn't an  
3 affirmative change or decision on our part. It  
4 was like our vendor was going out of business,  
5 they found a buyer, we took the path of least  
6 resistance and hooked up with them.

7 (Brief recess)

8 Q. I was just about to ask you a few  
9 questions about The Well. Could you just  
10 generally tell me about The Well, how is it  
11 different than Table Talk?

12 A. The Well is a 20-year-old online  
13 membership community. It was purchased by  
14 Salon in 1999 and was never integrated with  
15 Table Talk in any way except that the director  
16 of The Well also is the director of Table Talk.  
17 She's the director of our community. It's very  
18 separate. It's a small membership community.  
19 You can't -- unlike Table Talk where you can  
20 read it, any of us could read it, but then you  
21 have to be a member to post. With The Well you  
22 can't read anything. If you want to go in and  
23 look around, you've got to pay your membership,  
24 and those are the differences.

25 Q. Are the kinds of materials, the

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2 -- your increasing traffic is your goal I  
3 believe. Do you have a target demographic that  
4 you seek?

5 A. It's, you know, I try to be broad.  
6 I don't want Salon to be a kind of narrow  
7 casting niche publication for, you know, men in  
8 their late 20s or, you know. I really think  
9 that we're producing content and that success  
10 for us lies in a pretty broad general interest  
11 audience. I know there are a lot of niche  
12 publishing, but that doesn't excite me. I like  
13 to bring people across age lines, political  
14 lines, cultural lines so.

15 Q. What about your advertisers, what  
16 kind of demographics do they ask about, are  
17 they interested in?

18 A. Sure, there's a difference between  
19 what I shoot for and what I get. So, I shoot  
20 for the world, what I seem to have gotten is  
21 fairly affluent, educated, tends to be male, 30  
22 something, professional. So, having said that,  
23 we more -- the web is very male. We have more  
24 female readers than many publications, but it  
25 tends to be an affluent, educated, youngish,

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2 times. Whereas the original numbers  
3 seem to go in sequence from beginning to  
4 end.

5 MR. TODD: That is correct.

6 MR. WIDMAN: For whatever it's  
7 worth.

8 MR. TODD: Right, and for the  
9 future down the road.

10 Q. Starting with this article, I don't  
11 know if you need to take a moment to review it  
12 again, but I was just curious, Salon fears  
13 prosecution under COPA because of this article;  
14 what about this article gives rise to your  
15 fears of prosecution?

16 A. You know, again, while I might have  
17 no problem with this level of discourse, no  
18 doubt it would be offensive to some people with  
19 traditional values. So, the long description  
20 of all sorts of words for pussy, the, you know,  
21 the description of pussy.

22 Q. Do you think this article -- why  
23 did you publish this article, why did Salon  
24 publish this article?

25 A. Because we thought it was a

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2 provocative, this argument, how misogynistic it  
3 is that the term pussy when it's associated  
4 with women it's used to mean weak, loser,  
5 wishy-washy.

6 Q. You think it's a serious  
7 discussion?

8 MR. WIDMAN: Objection. Calls for  
9 a legal conclusion.

10 Q. Again, I'm asking you to use the  
11 common sense term of that word and not the  
12 legal definition.

13 MR. WIDMAN: Same objection.

14 A. I think serious like all the other  
15 terms is in the eye of the beholder so, and so  
16 my interpretation that this young writer really  
17 does want to change the way of how we use the  
18 word pussy, but that's my interpretation.  
19 Someone else could think it's an offensive,  
20 juvenile exercise and throwing around dirty  
21 words and getting to describe vaginas.

22 Q. Did you publish this article in  
23 order to appeal to sexual, you know, sexual  
24 excitement, prurient interests?

25 MR. WIDMAN: Objection. Calls for

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2 A. Very briefly it's about her coming  
3 to believe that where she once thought porn was  
4 very exploitive of women and anti-feminist,  
5 that in fact porn could be not only liberating,  
6 not only titillating and sexually very, very  
7 exciting, but liberating and with a, you know,  
8 segue way into the fascinating under side of  
9 people who frequent porn theaters.

10 MR. WIDMAN: I would like to object  
11 to the question. I think the article  
12 speaks for itself.

13 Q. Why did you publish, why did Salon  
14 publish this article?

15 A. This was actually before my time,  
16 but I would have published it, you know, still  
17 am open to publishing Susie, you know. We  
18 think she's a good writer with a unique voice  
19 on these topics. We think her history as a  
20 feminist and her evolution in the way she  
21 thinks about sexuality and even what's  
22 considered pornography is provocative and that  
23 she has interesting and unusual insights.

24 Q. Was the article itself designed to  
25 appeal to the prurient interest?

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2 MR. WIDMAN: Objection. Calls for  
3 a legal conclusion. Vagueness.

4 A. Again, it wouldn't seem that way to  
5 me, but with this level of explicit language  
6 and actual depiction of masturbation and  
7 everything else that's in here, it's very easy  
8 for me to imagine somebody else disagreeing  
9 with me.

10 Q. Did Ms. Bright ask you to link to a  
11 sample of any of the videos?

12 A. I don't know.

13 Q. Would you publish, would you put up  
14 links to pornographic movies if someone asked  
15 you to if they were reviewing a porn or  
16 discussing a porn movie like they did here?

17 MR. WIDMAN: Objection.  
18 Hypothetical.

19 A. Theoretically, yeah. I mean we  
20 link to a lot of things.

21 Q. But she didn't ask you to link to  
22 it here?

23 A. To my knowledge, like I said, I  
24 didn't work there then.

25 Q. Am I correct in noting that one of

1 JOAN WALSH

2 entitled 'Rectal Romance', and I want to  
3 confirm that this is the article you were  
4 referring to in your complaint?

5 A. Yes.

6 Q. Would you like a moment to review  
7 this article?

8 A. Sure. Okay.

9 Q. Why did you publish this article?

10 A. It was a widely-reviewed book by a  
11 relatively serious writer and was attracting  
12 all kinds of interest, and our staff writer  
13 wanted to explore the contradictions of this  
14 woman who considers herself a feminist writing  
15 a book called 'The Surrender', and talking  
16 about how important it was to be dominated in  
17 this particular way by a man.

18 Q. Do you consider this article a  
19 serious piece of journalism?

20 MR. WIDMAN: Objection. Calls for  
21 a legal conclusion. Vagueness.

22 A. We had serious intentions in  
23 printing it.

24 Q. When you printed this was your  
25 intent to arouse sexual excitement or appeal to

1 JOAN WALSH

2 the prurient interest?

3 MR. WIDMAN: Objection. Calls for  
4 a legal conclusion. Vagueness.

5 A. I really can't speculate about what  
6 somebody will find arousing or prurient.

7 Q. I'm asking what Salon's intent was.  
8 Was Salon's intent to appeal to the prurient  
9 interest?

10 MR. WIDMAN: Same objection.

11 A. Prurient is one of those really  
12 loaded, negative words. I mean of course not.

13 Q. With these three exhibits that I've  
14 put before you, did you put any kind of, did  
15 Salon put any kind of warning screen in front  
16 of them?

17 A. No.

18 Q. Why not?

19 A. We didn't think they rose to the  
20 level of being so disturbing or, you know,  
21 beyond the mainstream that we would have to do  
22 that.

23 Q. Do you know whether Salon picked  
24 these examples out from its archives or the  
25 ACLU picked these examples out from the archive



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2 someone as harmful to minors.

3 MR. WIDMAN: I would like to object  
4 to the last question because it calls  
5 for a legal conclusion.

6 Q. Are you aware that California has a  
7 harmful to minors statute?

8 A. I am.

9 Q. Are you concerned about prosecution  
10 of any material on your web site under that  
11 statute?

12 A. I'm not aware of it being applied  
13 to publications like ours. So, at this point I  
14 know it's a possibility, but it's not something  
15 I actively worry about.

16 Q. Because? I'm sorry, could you just  
17 explain that a little bit more?

18 A. Because I've never been informed  
19 that it would apply to the kind of content that  
20 we post on Salon and it's never been used that  
21 way.

22 Q. Are you aware that or generally  
23 aware that many states have harmful to minors  
24 laws that prohibit the sale or display of  
25 harmful to minor materials?

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2 MR. WIDMAN: Objection. Calls for  
3 information beyond the witness's  
4 personal information.

5 A. I'm vaguely aware.

6 Q. Do you fear prosecution under any  
7 of those statutes?

8 A. No, I don't actively fear it.  
9 Anything's possible.

10 Q. To back up and ask another  
11 question, you say on some of the photographs  
12 that you post sometimes you put a warning  
13 screen right in front of a series of  
14 photographs, you think that that's easier to do  
15 than to put some other sort of age-verification  
16 barrier?

17 MR. WIDMAN: Objection. Misstates  
18 prior testimony. Vagueness.

19 Q. Or something else that might comply  
20 with COPA?

21 MR. WIDMAN: Same objection. Calls  
22 for a legal conclusion also.

23 A. I wouldn't necessarily call it a  
24 warning screen. The language varies. It's  
25 part of the layout, it's part of the editorial

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2 A. That's a very tough question to  
3 answer and I get asked it all the time so I  
4 should have a better answer. I personally, you  
5 know, think we compete with the New York Times  
6 and the blogs. I think we compete on some  
7 level with the New Yorker and Vanity Fare. I  
8 have high aspirations, but, you know, in terms  
9 to a direct, we get compared to Slate. Slate  
10 is the last thing I think about. I mean I'm  
11 not putting it down, it's just not what we're  
12 doing given that my goal is to break news as  
13 well as produce the most compelling sort of  
14 social commentary certainly on the web.

15 But even beyond the web I tend to  
16 think of us more in the context of the New York  
17 Times than a, you know, talking points memo as  
18 much as I love Josh Marshall.

19 Q. Can you give us some examples of  
20 some other blogs that you view as competitors?

21 A. I don't really view the blogs as  
22 competitors because they're so small. I think  
23 collectively the blogisphere competes with us.

24 Q. Can you give us some examples of  
25 daily blogs that compete with you?